

42.1007 Content of advance agreements.

Agreements negotiated in accordance with this subpart shall include the items specified in paragraphs (a) through (j) following:

(a) A dollar ceiling for total IR&D costs.

(b) A dollar ceiling for total B&P costs.

(c) A total dollar ceiling for IR&D/B&P costs equal to the sum of paragraphs (a) and (b) above.

(d) The base or other information necessary for allocating IR&D/B&P costs.

(e) A statement that a review in accordance with 42.1005 has been performed.

(f) For those companies meeting the threshold requirements, a provision that the recovery of IR&D/B&P costs under Government contracts shall not exceed the lesser of—

(1) Such contracts' allocable share of incurred costs up to the total ceiling specified in (c) above; or

(2) The amount of incurred costs as determined under any agency special rules on allowability.

(g) Any additional agreements concerning the allocability or allowability of IR&D costs or B&P costs.

(h) A provision stating whether recovery is authorized under either paragraph (a) or (b) above in excess of the established ceiling, provided the total recovery in the two categories does not exceed the total ceiling in paragraph (c) above.

(i) A requirement that the lesser of (1) the current IR&D/B&P estimates or (2) the appropriate ceiling amounts shall be used by the Government and the contractor for estimating and pricing contractual actions. (Also see (e) above.)

(j) A requirement that the lesser of (1) the actual costs incurred or (2) the appropriate ceiling amounts shall be used by the Government and the contractor for final price determinations. (Also see (f) above.)

42.1008 Administrative appeals.

If negotiations are held and an advance agreement is not reached, the contracting officer shall make a determination of a reduced amount of pay-

ment for IR&D/B&P (see 31.205-18(c)(1)(v) and (vi)). Each lead negotiating agency shall establish an administrative appeals hearing group and procedures for hearing and deciding contractor appeals of the contracting officer's decision to reduce payment. Appeal procedures under this section are separate and distinct from board or court appeals under the Contract Disputes Act of 1978 (41 U.S.C. 601-613).

Subpart 42.11—Production Surveillance and Reporting**42.1101 General.**

Production surveillance is a function of contract administration used to determine contractor progress and to identify any factors that may delay performance. Production surveillance involves Government review and analysis of (a) contractor performance plans, schedules, controls, and industrial processes and (b) the contractor's actual performance under them.

42.1102 Applicability.

This subpart applies to all contracts for supplies or services other than facilities, construction contracts, and Federal Supply Schedule contracts.

42.1103 Policy.

The contractor is responsible for timely contract performance. The Government will maintain surveillance of contractor performance as necessary to protect its interests. When the contracting office retains a contract for administration, the contracting officer administering the contract shall determine the extent of surveillance.

42.1104 Surveillance requirements.

(a) The contract administration office determines the extent of production surveillance on the basis of (1) the criticality (degree of importance to the Government) assigned by the contracting officer (see 42.1105) to the supplies or services and (2) consideration of the following factors:

(i) Contract requirements for reporting production progress and performance.

(ii) The contract performance schedule.